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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Ellington, *et al.*  
 SERIAL NUMBER: 09/666,870 EXAMINER: Jon D. Epperson, Ph.D.  
 FILING DATE: September 20, 2000 ART UNIT: 1639  
 FOR: METHOD AND APPARATUS FOR IDENTIFYING ALLOSTERICALLY REGULATED  
 RIBOZYMES

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

## DECLARATION OF PRIOR INVENTION UNDER 37 C.F.R. § 1.131

We, Andrew Ellington, Michael Robertson, J. Colin Cox, Timothy Riedel and Eric Davidson, hereby declare and state as follows:

4/1/05

1. We are aware that in the final Office Action dated April 28, 2004 in the above-identified application ("the Application"), the Examiner has rejected claims 47, 49, 54-59 and 61-66 under 35 U.S.C. § 102(a) as being anticipated by Marshall and Ellington, *Nature Structural Biology*, 6(11):992-94 (1999) ("Marshall"). We are also aware that the Examiner has rejected claims 47, 49, 54, 58, 61-62 and 65-66 under 35 U.S.C. § 102(a) as being anticipated by Hesselberth *et al.*, *Reviews in Molecular Biotechnology*, 74:15-25 (2000) ("Hesselberth"). This Declaration is to establish that the Marshall and Hesselberth publications do not describe an invention that was known or used by others before the invention of the subject matter recited in the claims of the instant Application under 35 U.S.C. § 102(a).
2. We, Andrew Ellington, Michael Robertson, J. Colin Cox, Timothy Riedel and Eric Davidson, are the named inventors in this case. We note that Andrew Ellington is the Principal Investigator of the laboratory where the subject matter recited in the claims of the instant Application was invented.

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